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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ANTHONY NESBIT,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC
SAFETY, STATE OF HAWAII, et. al.

Defendants.

WILLIAM KOTIS,

Plaintiff,

vs.

STATE OF HAWAII DEPT. OF
PUBLIC SAFETY, et. al.

Defendants.

CIVIL NO. 03-00455 SOM-KSC
(Consolidated)

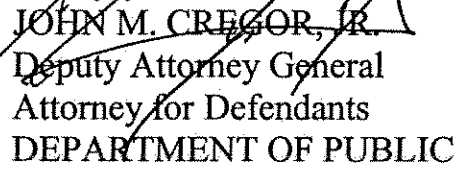
**DEFENDANTS CHERYL ZEMBIK
AND ERIC TANAKA'S RESPONSES
TO THE PLAINTIFFS' FIRST
REQUEST FOR ANSWERS TO
INTERROGATORIES TO
DEFENDANTS**

CIVIL NO. 04-00167 SOM-KSC
(Consolidated)

**DEFENDANTS CHERYL ZEMBIK AND ERIC TANAKA'S
RESPONSES TO THE PLAINTIFFS' FIRST REQUEST FOR
ANSWERS TO INTERROGATORIES TO DEFENDANTS**

COME NOW DEFENDANTS MONICA LORTZ and CINDA SANDIN,
by and through their attorneys, Mark J. Bennett, Attorney General of Hawaii, and
Cindy S. Inouye and John M. Cregor, Jr., Deputy Attorneys General, answers
Defendants Cheryl Zembik and Eric Tanaka's Responses to the Plaintiffs' First
Request for Answers to Interrogatories to Defendants as modified and limited by
United States Magistrate Judge Kevin S.C. Chang's Order of December 7, 2005,
and attaches these answers hereto. Answers from the remaining defendants will
be transmitted as they are received by counsel.

DATED: Honolulu, Hawai'i, March 15, 2006.



JOHN M. CREGOR, JR.
Deputy Attorney General
Attorney for Defendants
DEPARTMENT OF PUBLIC
SAFETY, STATE OF HAWAII,
JAMES L. PROPOTNICK, FRANK
LOPEZ, EDWIN SHIMODA,
NOLAN ESPINDA, ERIC
TANAKA, RANDY ASHER, SGT.
SAIA FINAU, CINDA SANDIN,
MONICA LIRTZ, CHERYL
ZEMBIK, LYLE KANOA, G.
SHERIDAN, and DAVID APAO

RESPONSES TO INTERROGATORIES FROM
DEFENDANT CHERYL ZEMBIK

1. Please state name, position and duties.

Answer:

Cheryl Zembik, case manager.

Provide case management services (i.e. inmate classification, reports, responds and/or refers inmate requests) for inmates housed in my assigned unit.

2. Were you trained in regards to prison gang management and procedures concerning prison gang members. When were you trained what was involved and how long was the training or instruction.

Answer:

No

3. Were you specifically trained or instructed in regards to the challenged housing practice of separating prison gangs from rival prison gangs and housing them in certain areas of Halawa prison (Quads) to what extent did you understand that this housing practice could be applied (in other words was it allowed to house a regular inmate (non-gang) member in with separated prison gang members.

Answer:

No training. Was aware of housing practices. It was ok to house gang members with no-gang members.

4. How long has the practice of separating rival prison gangs been in effect and what are the reasons for separating the rival prison gangs?

Answer:

Approximately 4 to 5 years now. Separation of gangs was to reduce prison violence.

5. Did you know that a regular inmate (non-gang member) could be housed with separated prison gang members (if answer is Yes what do you think about this practice?)

Answer:

Yes. This was a necessary practice.

6. What is a Quad (how many inmates in a Quad) (about how many if exact number is not known).

Answer:

A quad is a housing unit in a Block/Module. HMSF has 2 blocks in a Module and 4 quads in a Block therefore approximately 30 inmates or more per quad. HSNF has 3 quads in a Module. No Blocks. Maximum 20 inmates per quad – some quads hold less than 20.

7. How many separated prison gang members were in a Quad at one time (about how many).

Answer:

Unknown as the numbers would fluctuate. Maximum capacity in Module C for quads 1 and 2 (20 each).

8. How many separated prison gang members were allowed in a Quad.

Answer:

Unknown. Maximum capacity Module C (20 each) Quads 1 and 2.

9. What Quads in Halawa Medium and High Security Facility did separated prison gangs occupy?

Answer:

As far as Module C - Quads 1 and 2.

10. Since rival gangs were separated why didn't they separate regular inmates (non-gang) from separated prison gang members? Do you think they should have been separated (why or why not)?

Answer:

11. Do you know of any regular inmates that were victimized when housed with separated prison gang members (describe).

Answer:

Unable to recall names.

12. What are the policies or practices concerning the housing of a regular inmate with separated prison gangs?

Answer:

Routine procedure.

13. How many regular inmates (non-gang) requested protective custody for the last 5 years because they were beaten, threatened, or extorted by separated gang members (some – a lot – a whole lot)?

Answer:

Some.

14. How many Grievances for the last 5 years did you receive or know of that complained of prison gang members threatening, extorting, or assaulting inmates (some – a lot – a whole lot)?

Answer:

Some.

15. Does the separation of rival prison gang members exist in both Medium and High Security Facilities? Who authorizes? This when and how long did this exist?

Answer:

Yes. Chief of Security. Unknown.

16. Who do you know of including yourself if involved specifically authorized, allowed, approved of the practice of separating rival prison gangs and then housing regular inmate in with them. When did you come to know this?

Answer:

Deputy Director Eric Tanaka.

Unable to recall the time frame. (specific)

17. When was the prison gang intelligence unit and task force created? What is there function? What do they accomplish? Who is in charge? And how many make up the task force?

Answer:

18. Who's decision was it to create the gang task force intelligence unit. Why was it created or why do you think it was created, whom was it created?

Answer:

19. Are prison gangs a threat and danger to public order and safety (if Yes if no why).

Answer:

20. Are prison gangs and danger to regular inmates (if Yes why if no why).

Answer:

As a general rule, no more than any other inmate.

21. What kind of screening procedures and classification procedures were used to determine compatibility between regular inmates (non-gang members) and separated prison gang members that they were ordered to be housed with them.

Answer:

Inmate classification determine housing HMSF or HSNF.

Close custody – HSNF/Module C.

At the time FAC and Deputy Warden Eric Tanaka assigned inmates to Quads at Module C.

22. Do you know of any abuses in the housing practice such as guards putting a regular inmate or gang member in with separated prison gang members so he will be beaten (names need not be mentioned but may be) described as best you can.

Answer:

Absolutely not!!

23. What is the nature and character of prison gangs? What is there purpose, goals, agenda?

Answer:

2 e m b, R

24. Do you know what the right to safe custody policy says. What do you think it means.

Answer:

We have an obligation to keep inmates safe from foreseeable harm.

25. Are you aware that you have a duty to protect prisoners from a foreseeable harm. Explain what your understanding of this is?

Answer:

Yes, exactly what the question states.

26. Are prison gangs dangerous and who are they a danger to? Please describe.

Answer:

Prison gangs can be but are not necessarily dangerous. The danger they pose when they do is to rival gang members.

27. Are prison gangs a threat to prison security? If Yes why? If no why?

Answer:

Yes, as they fight with rival gangs and they may also be organized to facilitate the smuggling of contraband into the facility.

28. Do you think that housing a regular inmate (non-gang) with 15 separated prison gang members is dangerous to that regular inmate? If Yes why? If no why?

Answer:

Not necessarily.

29. [missing]

30. How many inmates have been injured in gang violence that you know of?
Are there any specific incidents that come to mind.

Answer:

Unknown.

RESPONSES TO INTERROGATORIES FROM
DEFENDANT ERIC TANAKA

1. Please state name, position and duties.

Answer:

Eric Tanaka, Deputy Warden.
Oversee housing, case management and operations issues.

2. Were you trained in regards to prison gang management and procedures concerning prison gang members. When were you trained what was involved and how long was the training or instruction.

Answer:

No

3. Were you specifically trained or instructed in regards to the challenged housing practice of separating prison gangs from rival prison gangs and housing them in certain areas of Halawa prison (Quads) to what extent did you understand that this housing practice could be applied (in other words was it allowed to house a regular inmate (non-gang) member in with separated prison gang members.

Answer:

Yes.

4. How long has the practice of separating rival prison gangs been in effect and what are the reasons for separating the rival prison gangs?

Answer:

Separating gang members is done to reduce violence. Since I arrived in June 1999 to the present gang members have been separate.

Tanaka

5. Did you know that a regular inmate (non-gang member) could be housed with separated prison gang members (if answer is Yes what do you think about this practice?)

Answer:

Yes, to mainstream individuals with other inmates it was necessary to house them together.

6. What is a Quad (how many inmates in a Quad) (about how many if exact number is not known).

Answer:

Large Quad 24 (12 cells), small Quad 12 (6 cells), mental health Quad 6 (6 cells).

7. How many separated prison gang members were in a Quad at one time (about how many).

Answer:

I do not know.

8. How many separated prison gang members were allowed in a Quad.

Answer:

Unknown.

9. What Quads in Halawa Medium and High Security Facility did separated prison gangs occupy?

Answer:

I would expect all.

10. Since rival gangs were separated why didn't they separate regular inmates (non-gang) from separated prison gang members? Do you think they should have been separated (why or why not)?

Answer:

No. No documented conflict.

11. Do you know of any regular inmates that were victimized when housed with separated prison gang members (describe).

Answer:

No.

12. What are the policies or practices concerning the housing of a regular inmate with separated prison gangs?

Answer:

They are housed together.

13. How many regular inmates (non-gang) requested protective custody for the last 5 years because they were beaten, threatened, or extorted by separated gang members (some – a lot – a whole lot)?

Answer:

Some.

14. How many Grievances for the last 5 years did you receive or know of that complained of prison gang members threatening, extorting, or assaulting inmates (some – a lot – a whole lot)?

Answer:

Unknown.

15. Does the separation of rival prison gang members exist in both Medium and High Security Facilities? Who authorizes? This when and how long did this exist?

Answer:

Yes. Myself, the Chief or Warden.

16. Who do you know of including yourself if involved specifically authorized, allowed, approved of the practice of separating rival prison gangs and then housing regular inmate in with them. When did you come to know this?

Answer:

Warden Espinda, Deputy Warden Asher and Chief of Security Saia Finau.

Unable to recall the time frame. (specific)

17. When was the prison gang intelligence unit and task force created? What is there function? What do they accomplish? Who is in charge? And how many make up the task force?

Answer:

18. Who's decision was it to create the gang task force intelligence unit. Why was it created or why do you think it was created, whom was it created?

Answer:

19. Are prison gangs a threat and danger to public order and safety (if Yes if no why).

Answer:

20. Are prison gangs and danger to regular inmates (if Yes why if no why).

Answer:

All inmates are a danger – that's why they are incarcerated.

21. What kind of screening procedures and classification procedures were used to determine compatibility between regular inmates (non-gang members) and separated prison gang members that they were ordered to be housed with them.

Answer:

Inmates are classified using departmental guidelines to determine their custody level. Also, separate factors are taken into consideration as well as potential overcrowding concerns.

22. Do you know of any abuses in the housing practice such as guards putting a regular inmate or gang member in with separated prison gang members so he will be beaten (names need not be mentioned but may be) described as best you can.

Answer:

No.

TANAKA

23. What is the nature and character of prison gangs? What is there purpose, goals, agenda?

Answer:

24. Do you know what the right to safe custody policy says. What do you think it means.

Answer:

Unsure of policy. However, I believe safe custody refers to, every inmate being incarcerated in a safe manner – away from deliberate harm's way.

25. Are you aware that you have a duty to protect prisoners from a foreseeable harm. Explain what your understanding of this is?

Answer:

Yes. It is my duty and the Department's responsibility.

26. Are prison gangs dangerous and who are they a danger to? Please describe.

Answer:

All inmates are a danger especially if they band together for a common purpose.

27. Are prison gangs a threat to prison security? If Yes why? If no why?

Answer:

See above.

TANAKA

28. Do you think that housing a regular inmate (non-gang) with 15 separated prison gang members is dangerous to that regular inmate? If Yes why? If no why?

Answer:

No.

29. [missing]

30. How many inmates have been injured in gang violence that you know of? Are there any specific incidents that come to mind.

Answer:

Unknown.

TANAKA